

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent
application of:
T. Andrew Simonton

Serial No. 10/766,167
CIP of USSN 10/274,856

Filed: January 28, 2004

**SYSTEMS AND TECHNIQUES FOR
RESTORING AND MAINTAINING
VERTEBRAL ANATOMY**



Before the Examiner:
Thomas Sweet

Group Art Unit:
3738

December 27, 2005

Attorney Docket No.:
MSDI-556/PC947.00

INFORMATION DISCLOSURE STATEMENT

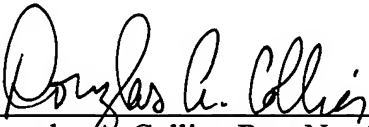
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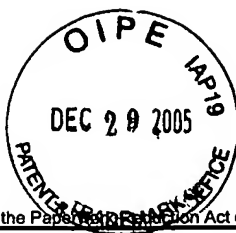
Pursuant to the duty of disclosure embodiment in 37 C.F.R. §1.56, applicant wishes to bring to the attention of the Examiner the following patents, publication and/or other information listed on the attached PTO Form 1449.

This information is not believed to have previously submitted in this application, and has not heretofore been cited by the Examiner. Unless marked with an "*", copies of the cited items have not been enclosed since each has been cited in the parent application Ser. No. 10/274,856 filed on October 21, 2002. Also enclosed is a PCT search report from a related PCT application in which the items marked with an "*" were cited. The search report provides a concise statement regarding the relevance of FR2841124 and FR 2795945. The filing of this Supplemental Information Disclosure Statement shall not construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56 or prior art.

This statement is being submitted before the mailing of a first Office Action on the merits, and no fee is believed due for consideration of the same. Should any fees be required, please charge the same to Deposit Account 12-2424, but not including the payment of any issue fees that are or may become due.

Respectfully submitted:

By: 
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PTO/SB/08A (07-05)

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

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Complete if Known

Application Number	10/766,167
Filing Date	January 28, 2004
First Named Inventor	T. Andrew Simonton
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Attorney Docket Number	MSDI-556/PC947.00

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		US- 5,306,309	04-26-1994	Wagner et al.	
		US- 5,445,639	08-29-1995	Kuslich et al.	
		US- 5,484,437	01-16-1996	Michelson	
		US- 5,458,638	10-17-1995	Kuslich et al.	
		US- 5,669,909	09-23-1997	Zdeblick et al.	
		US- 5,683,463	11-04-1997	Godefroy et al.	
		US- 5,782,830	07-21-1998	Farris	
		US- 5,860,973	01-19-1999	Michelson	
		US- 5,865,845	02-02-1999	Thalgott	
		US- 5,888,227	03-30-1999	Cottle	
		US- 5,893,890	04-13-1999	Pisharodi	
		US- 6,042,582	03-28-2000	Ray	
		US- 6,080,158	06-2000	Lin	
		US- 6,093,207	07-25-2000	Pisharodi	
		US- 6,159,214	12-12-2000	Michelson	
		US- 6,174,311	01-16-2001	Branch et al.	
		US- 6,179,873	01-30-2001	Zientek	
		US- 6,245,108	06-12-2001	Biscup	
		US- 6,325,827	12-2001	Lin	

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				
		EP 0 493 698 B2	04-05-1995	Harle, Anton, Prof. Dr.	Figures 1-6	
		EP 0 716 840 A2 *	06-19-1996	Surgical Dynamics, Inc.		
		EP 0 834 295 A1	04-08-1998	Antoine, Jacques Stephane	Figures 1-7	
		EP 1 099 429 A1	05-16-2001	Vryonides		
		EP 1 201 207 A1	05-02-2002	Wang et al.		
		FR 2 727 004	11-18-1994	Tisserand Philippe	Figures 1-5	

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		Number-Kind Code ² (if known)			
		US- 6,423,096	07-23-2002	Van Hoeck et al.	
		US- 6,428,544	08-06-2002	Ralph et al.	
		US- 6,432,140	08-13-2002	Lin	
		US- 6,447,548	09-10-2002	Ralph et al.	
		US- 6,458,159	10-01-2002	Thalgott	
		US- 6,471,725	10-29-2002	Ralph et al.	
		US- 6,607,557	08-19-2003	Brosnahan et al.	
		US- 6,610,065	08-26-2003	Branch et al.	
		US- 6,610,089	08-2003	Liu et al.	
		US- 6,719,794	04-2004	Gerber et al.	
		US- 6,743,257	06-01-2004	Castro	
		US- 6,746,484	06-08-2004	Liu et al.	
		US- 6,749,636	06-15-2004	Michelson	
		US- 6,890,355	05-10-2005	Michelson	
		US- 2001/0049560	12-06-2001	Paul et al.	
		US- 2002/0062153	05-23-2002	Paul et al.	
		US- 2002/0087212	07-04-2002	James et al.	
		US- 2002/0165550	11-07-2002	Frey et al.	
		US- 2003/0023306	01-30-2003	Liu et al.	

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		FR 2 724 312	04-21-1995	Alby Albert	Figures 1-5	
		FR 2 736 538	07-12-1995	Gastambide Daniel	Figures 1-9	
		FR 2 742 044	12-11-1995	Medinov SA Societe Anonym	Figures 1-5	
		FR 2 795 945	01-12-2001	Bernard et al.		
		FR 2 841 124 A1 *	12-26-2003	Eurosurgical Societe Anon		
		WO 01/03615 A1	01-18-2001	Scient'x	Abstract, Figures	

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		Number-Kind Code ² (if known)			
		US- 2003/0083748	05-01-2003	Lee et al.	
		US- 2003/0087984	05-08-2003	Erbe et al.	
		US- 2003/0105527	06-05-2003	Bresina	
		US- 2003/0114931	06-19-2003	Lee et al.	
		US- 2003/0125739	07-03-2003	Bagga et al.	
		US- 2003/0135275	07-2003	Garcia et al.	
		US- 2003/0135276	07-17-2003	Eckman	
		US- 2003/0199980	10-23-2003	Siedler	
		US- 2004/0078079	04-22-2004	Foley	
		US- 2004/0102847	05-27-2004	Sato et al.	
		US- 2004/0106996	06-03-2004	Liu et al.	
		US- 2004/0162617	08-19-2004	Zucherman et al.	
		US- 2004/0193159	09-30-2004	Zucherman et al.	
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		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		WO 01/28465 A2	04-26-2001	SDGI Holdings, Inc.		
		WO 01/68005 A2	09-20-2001	SDGI Holdings, Inc.		
		WO 02/38086 A1	05-16-2002	Medicrea	Abstract, Figures	
		WO 03/009786 A1	02-06-2003	Fornari		
		WO 03/037228 A2 *	05-08-2003	Osteotech, Inc.		

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